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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,465	02/27/2002	Kano Asai	M1909.0004/P004	4762
24998	7590	03/28/2005		
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 2101 L Street, NW Washington, DC 20037			EXAMINER JEAN GILLES, JUDE	
			ART UNIT 2143	PAPER NUMBER

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/083,465	KANO ASAI	
	Examiner	Art Unit	
	Jude J Jean-Gilles	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>02/27/02</u> . | 6) <input type="checkbox"/> Other: _____ |

JG *o*

DETAILED ACTION

This office action is responsive to communication filed on 02/27/2002. Claimed priority is granted from Foreign Application 056872/2001, Filing Date 10/17/2001.

Information Disclosure Statement

1. The references listed on the Information Disclosure Statement submitted on 02/27/2002 have been considered by the examiner (see attached PTO-1449A).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chilton (Chilton), Patent No. 6,732,117 B1 in view of Bommareddy et al (Bommareddy), U.S. Patent No: 6,779,039 B1.

Regarding **claim 1**, Chilton teaches the invention substantially as claimed. Chilton discloses a service providing system using front-ends (*fig. 4, items 60, and 114*) comprising:

a server for processing service tasks in response to service request from a client, and delivering service to the client (*fig. 4, items 60, 62-64; column 9, lines 35-67*);

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a means for measuring service response time from when the client requests the server for service to when the server delivers the service to the client (*column 2, lines 60-67; column 3, lines 1-36*);

a means for judging the service response time (*column 2, lines 60-67; column 3, lines 1-36*);

a means for creating a front-end to process the service tasks of the server and perform the service delivery in whole or in part based on the service response time (*column 8, lines 1-57; column 9, lines 35-67*);

a means for having the front-end process the service tasks and performs the service delivery in whole or in part as proxy for the server(*column 8, lines 1-57; column 9, lines 35-67*). However, Chilton does not specifically teach the step of creating a set value to judge the service response time.

In the same field of endeavor, Bommareddy teaches a method “*..a probe response time and network utilization metrics, to track the time to probe a network server ...*” [see Bommareddy, *column 17, lines 27-67; column 18, lines 1-65*].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Bommareddy's teachings of a method and apparatus to use a set time to compare the service response time, with the teachings of Chilton, for the purpose of “*providing a system and a method with less network traffic and a response time that is superior to the configuration that requires the entire database from*

the data storage system and searching database." as stated by Chilton in lines 31-36 of column 3. By this rationale **claim 1** is rejected.

Regarding **claim 2**, the combination Chilton- Bommareddy teaches the service providing system using front-ends claimed in claim 1, further comprising a means for bringing the front-end to rest when the response time recovers to less than the setting value after the front-end has processed the service tasks and performed the service delivery in whole or in part as proxy for the server [see *Bommareddy, column 15, lines 44-67; column 16, lines 1-18; column 22, lines 6-24*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 2 [see *Chilton, column 3, lines 31-36*]. By this rationale **claim 2** is rejected.

Regarding **claim 3**, the combination Chilton-Bommareddy teaches the service providing system using front-ends claimed in claim 1, further comprising a means for charging a service provider according to the volume of traffic between the client and front-end, and/or the amount of computer resources consumed by the front-end [see *Bommareddy; column 5, lines 34-65; see Chilton, column 9, lines 35-67; column 10, lines 1-64*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 3 [see *Chilton, column 3, lines 31-36*]. By this rationale **claim 3** is rejected.

Regarding **claim 4**, the combination Chilton-Bommareddy teaches the service providing system using front-ends claimed in claim 1, wherein the front-end is created on a communication device [see *Chilton, column 9, lines 35-67; column 10, lines 1-64*].

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The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 4 [see *Chilton*, column 3, lines 31-36]. By this rationale **claim 4** is rejected.

Regarding **claim 5**, the combination Chilton-Bommareddy teaches a service providing method using front-ends [see *Chilton*, fig. 4, items 60, and 114] comprising the steps of:

measuring service response time from when a client requests a server for service to when the server delivers the service to the client [see *Chilton*, (fig. 4, items 60, 62-64; column 9, lines 35-67];

judging whether or not the service response time is equal to or more than a setting value [see *Chilton*, column 2, lines 60-67; column 3, lines 1-36];

creating a front-end to process the service tasks of the server and perform the service delivery in whole or in part when the service response time is equal to or more than the setting value [see *Chilton*, column 8, lines 1-57; column 9, lines 35-67; see *Bommareddy*, column 17, lines 27-67; column 18, lines 1-65]; and

having the front-end process the service tasks and perform the service delivery in whole or in part as proxy for the server [see *Chilton*, column 8, lines 1-57; column 9, lines 35-67; see *Bommareddy*, column 17, lines 27-67; column 18, lines 1-65]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 5 [see *Chilton*, column 3, lines 31-36]. By this rationale **claim 5** is rejected.

Regarding **claim 6**, the combination Chilton-Bommareddy teaches the service providing method using front-ends claimed in claim 5, further comprising the step of bringing the front-end to rest when the response time recovers to less than the setting

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value after the front-end has processed the service tasks and performed the service delivery in whole or in part as proxy for the server see *Bommareddy, column 15, lines 44-67; column 16, lines 1-18; column 22, lines 6-24*. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 6 [see *Chilton, column 3, lines 31-36*]. By this rationale **claim 6** is rejected.

Regarding **claim 7**, the combination Chilton-Bommareddy teaches the service providing method using front-ends claimed in claim 5, further comprising the step of charging a service provider according to the volume of traffic between the client and front-end, and/or the amount of computer resources consumed by the front-end[see *Bommareddy, column 5, lines 34-65; see Chilton, column 9, lines 35-67; column 10, lines 1-64*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 7 [see *Chilton, column 3, lines 31-36*]. By this rationale **claim 7** is rejected.

Regarding **claim 8**, the combination Chilton-Bommareddy teaches the service providing method using front-ends claimed in claim 5, wherein the front-end is created on a communication device [see *Chilton, column 9, lines 35-67; column 10, lines 1-64*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 8 [see *Chilton, column 3, lines 31-36*]. By this rationale **claim 8** is rejected.

Conclusion

4. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914.

The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles
Patent Examiner
Art Unit 2143

JJG

March 20, 2005

William C. Vaughan
Primary Examiner
Art Unit 2143
William C. Vaughan

JG